

REMARKS

This application has been reviewed in light of the Office Action dated June 1, 2006. Claims 30-68 are presented for examination, of which Claims 30, 36, 37, 43, 44, 50, 51, 57 and 63 are in independent form. Favorable reconsideration is respectfully requested.

Claims 30-68 were rejected under 35 U.S.C. § 103(a) as being obvious from United States Patent No. 6,445,460 (Pavley) in view of U.S. Patent 6,668,134 (Niikawa).

The general nature and purpose of the present invention has been adequately discussed in previous papers, as also has the primary reference (Pavley) relied upon by the Examiner, and it is not thought to be necessary to repeat that discussion in full herein.

Independent Claim 30 is directed to an image transferring apparatus that comprises a storage unit, adapted to store image data, and a display unit. The display unit is adapted to display a screen to enable a user to select between (1) transferring only image data stored in the storage unit which has not previously been transferred and (2) transferring all image data stored in the storage unit. The apparatus also comprises an image data transfer instruction unit adapted to enable a user to enter an instruction to transfer the image data, and a transfer control unit, adapted to perform control to transfer the image data in response to a transfer instruction entered by the user with the data transfer instruction unit, and to judge a selection selected from the screen displayed by the display unit. If the selection to transfer only image data not previously transferred is made, the transfer control unit performs control to transfer only the image data not previously transferred based on transfer history information, while if the selection to transfer all image data stored in the storage unit is made, all the image data stored in the storage unit is transferred, regardless of the transfer history information.

Among other notable features of Claim 30 are: (1) that, separate from image data

transfer instruction unit for enabling a user to enter a transfer instruction, a display unit displays a screen to enable a user to select between (a) transferring only image data not previously transferred and (b) transferring all image data; and (2) a transfer control unit for transferring image data based on history information when the user selects to transfer image only image data not previously transferred. Neither of these features are taught or suggested by the cited prior art.

Pavley relates to a method of providing more automatic image file handling for a digital image capture device by utilizing file attributes with digital images, and establishing one or more rule sets for digital image file handling based on the file attributes.

Pavley discusses, at col. 6, lines 10-63, the use of a rule set to perform automatic processing of images in a digital camera, and uses as an example processing in which each image in turn is checked for the presence of an attribute indicating that the image has been archived, and if no such attribute is found, automatically transferring the image in question to a computer for archiving, and associating an “archived” attribute with the image. This portion of Pavley states also that other rules can be established to obtain other kinds of automatic processing of the images.

The Office Action admits that Pavley fails to teach or suggest offering the user control over transferring either (1) only any image not previously transferred or (2) all images stored in the storage medium. However, the Office Action states that “Niikawa teaches an image capturing device (such as a digital camera, see Fig 9(a)-(21)) having buttons and a control wheel for manually selecting images to be transferred, wherein history information (see col. 15 line 36 - col. 19 line 40) for a particular image is stored (see col. 13 line 14 - col. 14 line 22) and the user can select to transfer images, including the option of all images and those already having been transferred not being transferred” (page 9). The Office Action further states on page 9 that

Niikawa “teaches the history data, similar to Pavley, being used to determine whether the image data has been previously transferred, and if so alerting the user accordingly (col. 9, lines 19-38)”. Thus, the Office Action basically repeats its previous rejection (and the reasoning therefor) that it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of Niikawa’s manual-driven image transfer set up into Pavley’s system.

Applicant respectfully disagrees. Niikawa relates to an image recording device which automatically transfers history information corresponding to an image and the image data from one storage medium, such as a memory card, to second storage medium, such as a magneto-optic disc having a larger capacity. The history information can be used to later retrieve the image from the second storage medium. Niikawa discusses, at col. 13, line 14 - col. 14, line 14, transferring all image data and corresponding history data from the memory card to the magneto-optic disc, including the steps of designating files to be transferred, comparing the amount of files to be transferred with the available storage space of the medium to which the data is to be transferred and, if there is sufficient storage space, transferring the image file followed by its corresponding history file.

The history data described in Niikawa may include the date when the history information was transferred (col., 15, lines 58-60). However, nowhere in Niikawa has Applicant found a teaching or even a hint of automatically transferring only the image data which has not previously been transferred by using the history information. The Office Action also cites column 9, lines 19-38 of the Office Action as using the history data to determine whether the image data has been previously transferred, and if so, alerting the user accordingly. However, this passage merely discusses determining whether an image data has already been transferred in response to an instruction to delete the image data, and alerting the user if such image data has not already

been transferred in order to confirm whether the image data should be deleted. This passage does not teach or suggest automatically transferring the image data which has not previously been transferred using the history information.

In sum, nothing has been found in Niikawa, that would teach or suggest “a display unit, adapted to display a screen to enable a user to select between (1) transferring only image data stored in said storage unit which has not previously been transferred and (2) transferring all image data stored in said storage unit” or “a transfer control unit, adapted to perform control to transfer the image data, in response to an instruction to transfer entered by the user with said image data transfer instruction unit, and to judge a selection selected from the screen displayed by said display unit, and if the selection to transfer only image data not previously transferred is made, perform control to transfer only the image data not previously transferred based on transfer history information, and if the selection to transfer all image data stored in the storage unit is made, perform control to transfer all the image data stored in said storage unit regardless of the transfer history information,” as recited in Claim 30 [emphasis added].

Moreover, as discussed in the March 15, 2005 Request for Reconsideration, even assuming that Niikawa teaches all that it alleged to teach in the Office Action, Applicant does not agree that one of ordinary skill in the art would have found it obvious to modify Pavley by adding the use of a manual-driven image transfer setup into Pavley, and certainly such a person would not have been led to the structure of Claim 30 simply by referring to Pavley and Niikawa. Changing the status attribute of an image in Pavley is effected, as far as Applicant can discern, by automatic processing that follows rules pre-established by the user. Once a rule that specifies such attribute changes is in place, the Pavley system appears to perform the attribute changes automatically whenever the criteria of the rule are specified, without intervention by the user.

While the user can establish a rule that archives any unarchived images and changes the attributes of those images accordingly, that processing occurs automatically, and can neither be initiated, controlled, or halted by the user.

In this regard, it is significant that the whole point of Pavley is to remove certain processing from the ability of the user to control it in real time. For example, Pavley appears to consider real-time control of processing by a user as being a problem that needs to be remedied (col. 1, lines 25-34) and offers the Pavley system as a solution (col. 1, lines 36-50). Again, at col. 2, lines 14-17, Pavley states that the intention is “to produce more *automatic* handling and management of digital image files [emphasis added]”. Thus, while the Office Action asserts that a person of ordinary skill in the art would have found it obvious to incorporate the alleged features of Niikawa in Pavley, Applicant submits that, to the contrary, one of ordinary skill would not have any reason to even consider modifying Pavley in this fashion because it would tend to defeat the whole purpose of that patent and, thus, render Pavley unsuitable for its intended purpose. (See M.P.E.P. § 2143.01.) The Office Action suggests (page 10) that the intention stated in Pavley, “to produce more *automatic* handling and management of digital image files [emphasis added]”, should properly be read as “to produce *more* [but not completely] automatic handling and management of digital image files [emphasis added]”. Applicant respectfully disagrees. There is no disclosure whatsoever in Pavley to suggest anything other than “the user of file attribute designations [to support] automatic handling of image files through the use of preprogrammed rule sets....” (col. 6, lines 60-63).

Independent Claim 36 is directed to an image transferring apparatus that comprises a storage unit, adapted to store image data, a transfer unit, adapted to transfer image data stored in the storage unit, and a button, to instruct to transfer the image data. Also provided is a

changing unit, adapted to change transfer history information to a transferred status in the event that the transfer history information of the image data previously transferred by the transfer unit indicates that the image has not been transferred.

From the Office Action, Applicant understands that the Examiner does not find in Pavley any teaching or suggestion of the button recited in Claim 36, and Applicant agrees. Applicant does not, however, agree that one of ordinary skill would have found it obvious to modify Pavley by the addition of such a button for the same reasons set forth in the March 15, 2005 Request for Reconsideration, and certainly such a person would not have been led to the structure recited in Claim 36 simply by referring to Pavley and Niikawa. In particular, Applicant agrees with the Examiner that the use of buttons as control devices is well known, but Applicant submits that the point of the recitation in question in Claim 36 is that this feature gives the user the ability to manually initiate the process in question. Changing the status attribute of an image in Pavley is effected, as far as Applicant can discern, by automatic processing that follows rules pre-established by the user. Once a rule that specifies such attribute changes is in place, the Pavley system appears to perform the attribute changes automatically whenever the criteria of the rule are specified, without invention by the user. While the user can establish a rule that archives any unarchived images and changes the attributes of those images accordingly, that processing occurs automatically, and can neither be initiated, controlled, or halted by the user. In this regard, it is significant that the whole point of Pavley is to remove certain processing from the ability of the user to control it in real time. For example, Pavley appears to consider real-time control of processing by a user as being a problem that needs to be remedied (col. 1, lines 25-34) and offers the Pavley system as a solution (col. 1, lines 36-50). Again, at col. 2, lines 14-17, Pavley states that the intention is “to produce more *automatic* handling and management of digital image files

[emphasis added]”. Thus, while the Office Action asserts that a person of ordinary skill in the art would have found it obvious to incorporate the Niikawa button in Pavley, Applicant submits that, to the contrary, one of ordinary skill would not have any reason to even consider modifying Pavley in this fashion because it would tend to defeat the whole purpose of that patent and, thus, render Pavley unsuitable for its intended purpose. (See M.P.E.P. § 2143.01.)

For at least that reason, Claim 36 is deemed to be clearly allowable over Pavley and Niikawa.

Independent Claim 51 is directed to an image processing apparatus that comprises a capturing unit adapted to capture a plurality of bodies of reduced image data, each corresponding to a respective image, from a storage medium of at least one external device, and a display control unit, adapted to perform control so as to display the reduced image data captured by the capturing unit. A screen display control unit is adapted to perform control so as to display a screen to enable a user to select between (1) selecting only image data stored in said storage unit which has not previously been transferred and (2) selecting all image data stored in the storage medium, and so as to display, selectively, in response to selection made by the user, either (1) only any image not previously transferred or (2) all images stored in the storage medium.

Applicant submits that Claim 51 is allowable over Pavley and Niikawa for reasons analogous to those presented above in connection with Claim 30.

Claims 37, 43, 44, 50, 57 and 63 are each a method or a storage-medium claim corresponding to one or another of apparatus Claims 30, 36 and 51. Independent Claims 37 and 44 are believed to be clearly patentable over Pavley and Niikawa for the same reasons as is Claim 30, independent Claims 43 and 50 are believed to be clearly patentable over those patents for the same reasons as in Claim 36, and independent Claims 57 and 63 are believed to be patentable over

those patents for the same reasons as in Claim 51.

A review of the other art of record has failed to reveal anything which, in Applicant's opinion, would remedy the deficiencies of the art discussed above, as references against the independent claims herein. Those claims are therefore believed patentable over the art of record.

The other rejected claims in this application depend from one or another of the independent claims discussed above and, therefore, are submitted to be patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

This Response After Final Action is believed clearly to place this application in condition for allowance and, therefore, its entry is believed proper under 37 C.F.R. § 1.116. Accordingly, entry of this Response After Final Action, as an earnest effort to advance prosecution and reduce the number of issues, is respectfully requested. Should the Examiner believe that issues remain outstanding, it is respectfully requested that the Examiner contact Applicant's undersigned attorney in an effort to resolve such issues and advance the case to issue.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

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